

DEPARTMENT OF INSURANCE  
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BEFORE THE INSURANCE COMMISSIONER  
OF THE STATE OF CALIFORNIA

FILED

APR 16 2007

ADMINISTRATIVE HEARING BUREAU

In the Matter of the Rate Application of )  
)  
)  
ALLSTATE INSURANCE COMPANY )  
and ALLSTATE INDEMNITY COMPANY, )  
)  
Applicants. )  
\_\_\_\_\_ )

FILE NO.: PA-2006-00006

**FINAL RULING AND ORDER ON THE ISSUE OF THE  
APPLICABLE REGULATIONS TO BE APPLIED IN THIS MATTER**

The hearing on the issue of the applicable regulations to be applied in this proceeding was held on April 10, 2007 at 2:00 p.m. with Chief Administrative Law Judge ("ALJ") Marjorie A. Rasmussen presiding. Donald Hilla, Esq. and Daniel Goodell, Esq. appeared on behalf of the California Department of Insurance ("CDI"). Neal L. Wolf, Esq., Katherine Sullivan, Esq., Kathryn H. Baxter, Esq. of LeBOEUF, LAMB, GREEN & MacRAE appeared on behalf of the Applicants Allstate Insurance Company and Allstate Indemnity Company ("Allstate"). Charles M. Smith, of Allstate also was present. Daniel Y. Zohar, Esq. of the ZOHAR LAW FIRM, PC, Pamela Pressley, Esq. and Todd M. Foreman, Esq. appeared on behalf of the Intervenor The Foundation for Taxpayer and Consumer Rights ("FTCR").

Having issued her tentative ruling that the amended version of the regulations commencing with California Code of Regulations, title 10, section 2642.1 (“amended regulations”) operative on April 3, 2007, shall apply to this proceeding, the ALJ requested at the commencement of the hearing that counsel limit their oral arguments to those matters not already raised in their respective briefs.<sup>1</sup>

Allstate briefly outlined its arguments on why the amended regulations should not apply. In essence, Allstate reiterated its argument that its September 2006 rate application could not have complied with regulations that did not become operative until April 2007.<sup>2</sup> Allstate further argued that California Code of Regulations, title 10, section 2643.8 of the amended regulations states that “the values used shall be the most recently published values provided that the values were published at least 45 days before the receipt of the rate application. Otherwise, the values shall be those published immediately prior to publication of the most recent values.” Allstate contended that since no such values were published prior to the submission of Allstate’s rate filings in the fall of 2006, any values the CDI or FTCTCR may provide now would constitute an amendment of the regulations, which cannot be done in the context of this evidentiary hearing.<sup>3</sup> Allstate then reiterated its argument that it would be time consuming and financially burdensome for Allstate to recreate its rate application to conform to the amended regulations.<sup>4</sup>

The CDI argued that the 45 days time period under California Code of Regulations, title 10, section 2643.8 will have passed by the time Allstate submits an

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<sup>1</sup> Court Reporter Transcript of Proceedings (“RT”), p. 6.

<sup>2</sup> RT, p. 11.

<sup>3</sup> RT, p. 12.

<sup>4</sup> RT, pp. 13-17.

amended rate application to conform to the amended regulations. In any event, the CDI argued, Allstate will need to update its data used in formulating its rates in preparation for the evidentiary hearing in this matter. The CDI reiterated its arguments that Allstate will not be unduly burdened by the application of the amended regulations to these proceedings and otherwise submitted the balance of the CDI's opposition on the ALJ's tentative ruling.<sup>5</sup>

The FTCCR rejected Allstate's argument that the filing of the rate application has some sort of legal effect. The FTCCR contended that Allstate has failed to cite any statutory or case law that supports Allstate's contention that the act of filing an application somehow locks in the regulations to be applied at an evidentiary. In essence, FTCCR argued that the regulations at issue here are the regulations governing a hearing on an application. Thus, the regulations to be applied to this hearing are the regulations in effect at the time of the hearing not the regulations in effect at the time of Allstate's rate application. The FTCCR otherwise submitted the matter on the ALJ's tentative ruling.

The ALJ discussed the basis of her tentative rulings and indicated that the arguments presented at the hearing, which did not differ significantly from the arguments presented in the briefs, had not persuaded her to alter the tentative ruling. However, the ALJ agreed to take the matter under further consideration.<sup>6</sup> After reconsidering the above arguments, the ALJ abides by her tentative ruling for the reasons stated therein and at the hearing on this issue.

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<sup>5</sup> RT, pp. 17-18.

<sup>6</sup> RT, pp. 23-26.

## ORDER

Accordingly, IT IS HEREBY ORDERED that:

1. The amended version of the ratemaking regulations contained in California Code of Regulations, title 10, commencing with section 2642.1 (operative on April 3, 2007) shall apply to these proceedings.

DATED: April 16, 2007

  
MARJORIE A. RASMUSSEN  
Chief Administrative Law Judge